

Subparts E–H [Reserved]**Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft**

41.80–82 [Reserved]

41.83 Disposal of consumer information

AUTHORITY: 12 U.S.C. 1 *et seq.*, 24 (Seventh), 93a, 481, 484, and 1818; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

EFFECTIVE DATE NOTES: 1. At 70 FR 33975, June 10, 2005 the authority for part 41 was revised, effective Mar. 7, 2006. At 70 FR 70664, Nov. 22, 2005, the effective date was delayed until Apr. 1, 2006. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 481, 484, and 1818; 15 U.S.C. 1681a, 1681b, 1681s, 1681w, 6801, and 6805.

2. At 70 FR 70675, Nov. 22, 2005, the authority for part 41 was revised, effective Apr. 1, 2006. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 481, 484, and 1818; 15 U.S.C. 1681a, 1681b, 1681s, 1681w, 6801, and 6805.

SOURCE: 69 FR 77616, Dec. 28, 2004, unless otherwise noted.

Subpart A—General Provisions

EFFECTIVE DATE NOTES: 1. At 70 FR 33975, June 10, 2005, subpart A was revised, effective Mar. 7, 2006. At 70 FR 70664, Nov. 22, 2005, the effective date was delayed until Apr. 1, 2006.

2. At 70 FR 70675, Nov. 22, 2005, subpart A was revised, effective Apr. 1, 2006. For the convenience of the user, the revised text follows the text of this subpart.

§ 41.1 Purpose.

(a) *Purpose.* The purpose of this part is to establish standards for national banks regarding consumer report information. In addition, the purpose of this part is to specify the extent to which national banks may obtain, use, or share certain information. This part also contains a number of measures national banks must take to combat consumer fraud and related crimes, including identity theft.

(b) [Reserved]

§ 41.2 [Reserved]**§ 41.3 Definitions.**

As used in this part, unless the context requires otherwise:

(a)–(d) [Reserved]

(e) *Consumer* means an individual.

(f)–(n) [Reserved]

EFFECTIVE DATE NOTES: 1. At 70 FR 33975, June 10, 2005, subpart A was revised, effective Mar. 7, 2006. At 70 FR 70664, Nov. 22, 2005, the effective date was delayed until Apr. 1, 2006. For the convenience of the user, the revised text is set forth as follows:

Subpart A—General Provisions**§ 41.2 Examples.**

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part. Examples in a paragraph illustrate only the issue described in the paragraph and do not illustrate any other issue that may arise in this part.

§ 41.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate* means any company that is related by common ownership or common corporate control with another company.

(c) [Reserved]

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(e) *Consumer* means an individual.

(f)–(h) [Reserved]

(i) *Common ownership or common corporate control* means a relationship between two companies under which:

(1) One company has, with respect to the other company:

(i) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of a company, directly or indirectly, or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of a company; or

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a company, as the OCC determines; or

(2) Any other person has, with respect to both companies, a relationship described in paragraphs (i)(1)(i)–(i)(1)(iii) of this section.

(j) [Reserved]

(k) *Medical information* means:

(1) Information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

(i) The past, present, or future physical, mental, or behavioral health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) The payment for the provision of health care to an individual.

(2) The term does not include:

(i) The age or gender of a consumer;

(ii) Demographic information about the consumer, including a consumer's residence address or e-mail address;

(iii) Any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy; or

(iv) Information that does not identify a specific consumer.

(1) *Person* means any individual, partnership, corporation, trust, estate cooperative, association, government or governmental subdivision or agency, or other entity.

2. At 70 FR 70675, Nov. 22, 2005, subpart A was revised, effective Apr. 1, 2006. For the convenience of the user, the revised text is set forth as follows:

Subpart A—General Provisions

§ 41.2 Examples.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part. Examples in a paragraph illustrate only the issue described in the paragraph and do not illustrate any other issue that may arise in this part.

§ 41.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate* means any company that is related by common ownership or common corporate control with another company.

(c) [Reserved]

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(e) *Consumer* means an individual.

(f) [Reserved]

(g) [Reserved]

(h) [Reserved]

(i) *Common ownership or common corporate control* means a relationship between two companies under which:

(1) One company has, with respect to the other company:

(i) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of a company, directly or indirectly, or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of a company; or

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a company, as the OCC determines; or

(2) Any other person has, with respect to both companies, a relationship described in paragraphs (i)(1)(i)–(i)(1)(iii) of this section.

(j) [Reserved]

(k) *Medical information* means:

(1) Information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to:

(i) The past, present, or future physical, mental, or behavioral health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) The payment for the provision of health care to an individual.

(2) The term does not include:

(i) The age or gender of a consumer;

(ii) Demographic information about the consumer, including a consumer's residence address or e-mail address;

(iii) Any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy; or

(iv) Information that does not identify a specific consumer.

(1) *Person* means any individual, partnership, corporation, trust, estate cooperative, association, government or governmental subdivision or agency, or other entity.

Subparts B–C [Reserved]

Subpart D—Medical Information

SOURCE: 70 FR 70675, Nov. 22, 2005, unless otherwise noted.

EFFECTIVE DATE NOTES: At 70 FR 70675, Nov. 22, 2005, subpart D was added, effective Apr. 1, 2006. At 70 FR 75931, Dec. 22, 2005, the amendatory instruction was corrected to revise subpart D. This text is set forth as follows.

§ 41.30 Obtaining or using medical information in connection with a determination of eligibility for credit.

(a) *Scope*. This section applies to:

(1) Any person that participates as a creditor in a transaction and that is a national bank, a Federal branch or agency of a foreign bank, and their respective subsidiaries; or

(2) Any other person that participates as a creditor in a transaction involving a person described in paragraph (a)(1) of this section.

(b) *General prohibition on obtaining or using medical information*—(1) *In general*. A creditor may not obtain or use medical information